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Supreme Court, U.S.
FILED

001931 MAY 3 1 2001

OFFICE OF THE CLERK

No.

In THE

**Supreme Court of the United States**

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Angel F. Cordero,
Petitioner,

v.

Rodney E. Slater,
Respondent,

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**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit**

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# PETITION FOR A WRIT OF CERTIORARI

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**Angel F. Cordero**
**(Petitioner Pro se)**
**800 Edmonton Circle**
**Goose Creek, SC 29445**
**(843) 553-3562**

5 ? ? 8

## QUESTIONS PRESENTED

Mr. Angel F. Cordero, (Petitioner) served proudly the Federal Government of the United States of America for 28 years and 7 months, and was forced into retirement on Jan 1997, due to the fact that his career progression has to come to a complete stop since 1990. After thorough investigation, found out, his career progression has stopped due to a conspiracy and other acts of hate and crimes committed by the individuals mentioned in this petition. Although he kept the Civil Rights Offices & Officers in the Atlanta Regional offices well informed of these crimes and Violations to his Civil Rights and Instituted Laws, nothing was ever done to stop these abuses of power, nor a formal investigation carried out, nor sanctions applied to theses perpetrators. He seek help and guidance for seven years, but nothing was ever done to resolve the issues presented; nor corrective action taken. Now may I ask.

1. Did a violation to Title VII of the Civil Rights ACT of 1964 existed and taken in consideration. Together with the Issues of Law and violations to the Constitution of the United States of America Fourteenth Amendment's Due Process Clause. that insures, establish Justice and domestic Tranquillity, as well as secure Blessing of Liberty and the Pursuit of Happiness.

2. Whether the Court of Appeals erred by not taking in consideration and or overlooking these Facts of Law, or Crimes committed against the Petitioner: Such as, Conspiracy, Forgery, Malicious Mischief, and Perjury

Will the Petitioner be granted a Jury trial, and or the Honorable Supreme Court of the UNITED STATES of AMERICA will make a final decision reference these Violations to my Civil Right and these Issues of Law.

## PARTIES

The petitioner in this case is Angel F. Cordero, a Pro se litigant.

The respondents in this case is the Honorable Secretary Of Transportation; Rodney E. Slater

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In THE

Supreme Court of the United States

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No. 00- _____

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Angel F. Cordero,
Petitioner,

v.

Rodney E. Slater,
Respondent,

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**On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit**

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## PETITION FOR A WRIT OF CERTIORARI

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Petitioner Angel F. Cordero respectfully requests that a writ of certiorari issue to review the judgment of the U.S. Court of Appeals for the Fourth Circuit in Cordero v. Slater, No. 00-2100

## OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit is unpublished and is reprinted in the appendix to this petition at App. 1a. The order of the U.S. District Court for the District of South Carolina, Filed Jul 27, 2000 adopting the Summary Judgment submitted by the Defendant's, at App. 2a and the answer to my Motion

for Reconsideration opposing the Honorable Court's decision Filed Aug 15, 2000. At App. 3a.

## JURISDICTION

The final opinion of the Fourth Circuit was issued and or Filed February 21, 2001 and received by my in the early part of March 2001 I have requested from the U.S. Court of Appeals or proper procedures and guidelines and consider my petition timely filed. Based on these facts the jurisdiction of this Supreme Court of the United States of America is invoked.

## CONSTITUTIONAL PROVISIONS INVOLVED

The Basic Rights of every individual, as stipulated in the preamble to the Constitution of the UNITED STATES. We, the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America. Liberty and Freedom from Conspiracies, Discrimination, Hate and Violations to Instituted Rights and Issues of Law.

## STATEMENT OF THE CASE

### A. Introduction

I have been pursuing these cases for the past three years after investigating and analyzing the information offered to me through the legal process, and I have found that the Federal Aviation Administration, as well as other Departments of the U.S. Government, assigned to investigate these cases have prevented the Honorable Courts of Justice from assessing all the facts that when really presented and analyzed will undoubtedly tell a story of "the truth-seeking function that will eventually lead to a jury trial." The Act of Hate and Crimes committed by these individual were never brought to light not mentioned or disputed by the Defendant's. Conspiracy requires an intentional mischief and a well pre-planned action. As done in the cases presented and substantiated by Perjury and or False testimony on Sworn statements, given by these government officials and presented will my cases since the beginning. With Ill-intent to deceive and intentionally slander the Petitioner's reputation, and eventually and forcefully pressure him into retirement.

These AFFIDAVITS are reprinted as Exhibits.,

C: Affidavit of Mr. William P. Dorminy, Air Traffic Manager Gainesville, Flight Service Sta. Gainesville Florida DOT / FAA dated 29 March 1994

E. Affidavit of Mr. William Rodenfels, Air Traffic Supervisor, Gainesville Flight Services, Gainesville Florida DOT / FAA dated 19 October 1998

F. Affidavit of Mr. William P. Dorminy (retired) Air Traffic Manager, Gainesville, AFSS, Gainesville, Florida DOT, FAA dated 19 October 1998

G. Affidavit of Mr. Francisco Estrada Cotto, Air Traffic Manager, San Juan Automated Flight Services, San Juan, Puerto Rico. Dated 25 Jan 1996

I believe these AFFIDAVITS by themselves constitute enough evidence to prosecute these individuals as guilty parties in a Conspiracy and grant the Petitioner an opportunity of a Jury trial, as requested since the beginning.

## FACTUAL BACKGROUND

The Petitioner, Angel F. Cordero, was employed by the Federal Aviation Administration for approximately 25 years, Prior to been hired by the Agency, Mr.Cordero had served proudly with the United States Air Force and Honorably Discharged, Worked four years of active duty as a Communications Center Specialist. After been Honorably Discharged, worked for the Airlines Industry in Puerto Rico for ten years, as an Air-to-ground Radio/Teletype operator as well as an Operations Agent, Public Relations officer and later became vice-president of the Airline Employees Association (ALEA) labor organization. (Union).

Which means that before I was hired by the DOT/ FAA I had already been exposed to Communications and the Air Traffic System for at least fourteen (14) years. I carried this experience with me to the DOT/ FAA, when hired on May 30, 1972 as an Air Traffic Controller, Developmental/Specialist.. After proving myself in the Live-Radar environment and based on my exposure and previous experience with the Airline Industry, besides Public Relations with the community and General Flying Public, in the Puerto Rico area, I decided to "Change Options" and be a better asset to the DOT/FAA by joining the ranks of the San Juan International Flight Services.

Proof of this, is the numerous Awards and Commendations received with respect to my dealings with the Flying Community.. As well as with my peers. Among the Awards received, there is one that includes the Design and Plans for the NEW-ERA of Automation of the Flight Service stations, within the Department of Transportation, Federal Aviation Administration. I also

served as Operations Officer and Coordinator of various Aviation related events in the Puerto Rico / Virgin Islands area.

Based on these qualifications by August of 1979, was promoted from within the ranks to Area Supervisor. Where I continued my career progression by been part of the, Supervisory Committee, the Facility of Air Traffic Technical Advisory Committee, the Pilot Education Program team. Also Budget Officer, Security Officer or Custodian of Classified Documents, and detailed as Deputy Chief. Demonstrating being a true asset to the DOT/FAA.

Was transferred to the Charleston Flight Service station, Charleston, South Carolina on March of 1983 after been selected by this facility as an Area Supervisor. Position that I held until Charleston FSS was closed down on January 1990, due to the devastation created by hurricane Hugo. Giving me a combined time of twelve (12) years as a Supervisor of Air Traffic services, and also the opportunity to demonstrate my Managerial abilities, as well as Public Relations officer and journeyman.

From 1975 until 1990, I had obtained achieved, among other recognition's: Eleven (11) Official letters of Commendation/Government Awards. Four Special Achievement Government awards. and seven (7) PERFORMANCE AWARDS and Government AWARDS for EXCEPTIONAL PERFORMANCE., during the years 1987, 1988., 1989., and 1990. Exhibit A

On January 1990, I was transferred to the Anderson Automated Flight Service Station as a journeyman, and from that moment on, my successful career with the FAA, came to an abrupt stop. Despite all efforts to

prove myself. I was never given the opportunity to apply nor demonstrate my abilities and or make use of my skills and previously acquired experiences and knowledge. Nor continue being and asset to the D.O. T./F.A.A. However, while in Anderson AFSS I was able to participate and excel in the Supervisory Identification Development Program. Also succeeded in been Certified by the National Weather Service as a Meteorology Ground Weather Observer, and checked out in model-1 Automation equipment, as well as the ICSS, operations.

From Anderson, AFSS., I was reassigned and transferred to the Jacksonville Flight Service station and here is where I found some answers to the questions about why my successful career with the Federal Aviation Administration, has been destroyed, and by whom (s), After a ten years pursuit for the truth.

EXHIBIT B; Summary of E.E.O. Counselor, Mr.Curtis Milton, Jacksonville, Fla, dated 3-29-93, is an "example" of the Intimidating, Biased, Discriminatory , and incriminatory attitude of Mr. William P. Dorminy, when to this investigator he responded" would never assigned him to that position UNLESS ORDERED TO DO SO BY A SUPERIOR"'. Implying in this case and or making reference to:

A. The Honorable Secretary of Transportation and or
B. The Honorable President of the United States of America.

This remark by itself is extremely offensive, demoralizing, and discriminatory in nature. Specially coming form the Manager of the North Florida D.O.T. / F .A.A. Has indeed a heavy weight and adverse connotations and consequences. Highly prejudicial specially to the future of my fruitful career and considered a direct violation to my Civil Rights as well as to the Rights of every individual as protected by the Constitution of the United States of America. And

Contradict his justification for selection as demonstrated on Exhibit B2.

## ISSUES OF FACTS

All these FACTS will now lead to the "Real Issues of Law" as expressed on my Civil Actions, of Violations to my Civil and Constitutional Rights, as well as Prohibited Statues of the Merit Systems Protection Board, and the Equal Employment Opportunity Commission. And as expressed these proofs of wrongdoing when connected, will establish a logical inference or conclusion that such a fact does exists.

My two main accusers were/are Mr. Victor Byrd and Mr. William Rodenfels. Conspiracy and the unlawful Act., committed by Mr. William Dorminy, when based on misinformation obtained by Mr. Victor Byrd and Mr. Mike Powerly, of the southern region Air Traffic Division, and with willful and intentionally Malicious mischief, Defamed my name and Reputation with the purpose of injuring, the until then and as expressed above my successful career progression with the D.O.T. / F.A.A.

Enclosed find "Sworn Affidavit of
Mr. William P. Dorminy Manager of the Gainesville Automated Flight Service Station on 29 March 1994. Exhibit C.

This whole document is a series of LIES., and perjury committed by this High Ranking Official of the Federal Aviation Administration and based only on the "RECOMMENDATIONS' given by Mr. Victor Byrd with the sole purpose of slandering my reputation.
Another SWORN AFFIDAVIT , Declaration of William P. Dorminy, dated 19th October 1998 this time using Mr. William Rodenfels as a supportive figure. Again, this document is nothing more than another Series of Lies, and Derogatory Statements., used to completely destroy my career and my livelihood. Sworn Affidavit signed under penalty of *'perjury'* dated 19th October 1998
I will make at this time, a brief mention to Par.4, of Mr. William Rodenfels declaration,

EXHIBIT D: Summary of investigation performed by Mr. Carlos V. Otero, dated June 1994, was part of evidence submitted with my cases., on which the Allegations of Abuse of Sick Leave after its investigation, proved, beyond a shadow of doubt, another Conspiracy. A Pre-planned, Pre-Pre-meditated act of Prohibited Personnel Practice, master minded at the Gainesville, AFSS, Gainesville, Florida by among others, Mr. William P. Dorminy, a High Ranking official of the Executive Branch of the D.O.T. F. A. A. As far as August 1992, seven months prior to the non-selection. Used an misfortunate job related accident to defame, and discredit me as a potential candidate for any and all possible promotions within the Southern Region, and using Mr. Emeris Smitherman the Air Traffic Manager of the Jacksonville Flight Service Station, and Mr. William Rodenfels, supervisor of this same facility, as conspirators in this event, to defeat, defame, discredit, and dishonor me as an individual.
When I was falsely accused of abusing sick leave. Instead of been authorized and obtain the benefits associated with

traumatic leave. I used my accrued sick leave to meet the demands of the medical appointments related to the injuries suffered to my back, on a job related accident, while helping a co-worker cope with an emergency. It was to these individual advantages this event and misfortune. As it gave them the opportunity to fabricate charges and built a case against me. The first in my 20 years of FAA career. The matter was such, that even the paperwork (CA-1) and other forms and statements submitted by me on June 6, 1992, including the Notice of Job Related traumatic injury were held back, nor submitted to the office of Worker's Compensation programs, as late as July 14, 1992. Five weeks later. So I never obtained the benefits (if any) associated with the injuries suffered to my back, including the payment for the use of my sick leave accrued, nor traumatic leave. All the time used to recuperate form the pain and suffering to my injured back, including medication and doctors appointment requested, were charged to my sick leave. And later used to unjustly and unfairly, charging me with Abuse of Sick Leave. And use this event as a contra productive recommendation whenever I were to apply for, any future vacancy and or possible selection. Finally, and after Mr. Carlos v. Otero investigation, Mr. Emeris Smitherman and Mr. William Rodenfels admitted to the "truth and facts" of the real originator of the Conspiracy Exhibit D.

"Abusing of Sick Leave" As well as Par. #7 of Mr. William P. Dorminy on which he uses this sad event as an excuse to continue his Defamation of my Character and Reputation and prevent form that moment on, any further opportunities of Career Progression. All of these going against Rules and Regulations governing the Merit Systems Protection Board, The Constitution of the United States of America and my Civil Rights
Another example of the extremes, to which persons like

Mr. William P. Dorminy, Mr. Emeris Smitherman, and Mr. William Rodenfels were willing to go in order to "Destroy my livelihood" and career progression, as well as my family life and personal reputation. A clear visible and undisputed case of conspiracy, defamation of character, deceit, perjury, and slander.

I believe these cases as presented to both, The District Court of the United States for the District of South Carolina, Charleston Division and the United States Court of Appeals for the Fourth Circuit, proven beyond any reasonable doubt, a conspiracy. And that these accusations were / are false and without fundaments and this case warrants either a final decision form the Honorable Supreme Court, or a judgment for a continuation as a jury trial. As all accusation were premeditated and or another way of Mr. William Rodenfels and Mr. Victor Byrd, retaliatory measures, to finally and completely destroy me, as a person and individual.

It is hard to believe the inconsistencies found on these cases. And how so many persons and Government Agencies were manipulated to participate, directly or indirectly into it. Including but not limited, to go to the extreme, or as far as, to =falsify= official documents in order to incriminate me.

The whole case was nothing more than an Act of Conspiracy and Deceit. And it should have been corrected immediately. Starting by actions taken by Mr. Frank Estrada Cotto (based on his OWN testimony,) were not his., as HE was not given any participation on this Conspiracy., other than be used as a "signature figure". .His AFFIDAVIT dated 25th January 1996, Gives "Testimony" to this as in enclosed as , Exhibit G.

On Par. 3., Mr. Cotto is very specific, when he says: " I signed it and gave it to Cordero.

When I got Cordero's response, I sent it to BYRD" etc., etc., Par. #4 is even more explicit, when Mr. Cotto's says., "I do not remember whether I wrote the letter at their (???) instruction or they sent one for my signature. I did not do an independent investigation before issuing this letter either. I did not have access to the underlying facts and circumstances. And more perjury committed when on his letter dated Feb 10, 1995, He states "I have given full consideration to the information you presented in your written reply dated December 14, 1994. etc.,etc. Exhibit _G2____ . Never the less Mr. Frank Estrada-Cotto, on his Sworn Affidavit dated Jan. 25, 1996, admits to Ms. Wilma Rosenberg. On Par 6. And making reference to documents presented to him by the investigation, "This is the first time I have seen this document". We are talking about accusations made 1½ years earlier. Decision made forcefully on Oct 25, 1994 as ordered by his superior, and the truth of the facts, on this issue of Law, or Conspiracy came to light on Jan 25, 1996.

He or whoever was directing the CONSPIRACY and Defamation., at the Region failed to notice that together with answers to Specification 7 & 8, I have pointed out Inconsistencies to their allegations. Including a "parallel timetable" submitted, in order to demonstrate, swift retaliation., and part of these inconsistencies. or impossibilities.

The Honorable Secretary, also mention the National Association of Air Traffic Specialists(NAATS UNION ). As Exhibits H and I, I have reprinted letter of the San Juan International Flight Service Station ( NAATS) facility representative., Ms. Grizzelle M. Canter, dated 8/31/94 4:pm.
After making an independent investigation on behalf of NAATS labor organization. The Facility Rep. is very

specific when she writes. "Mr. Jones said he was not able to help me because it had been a while, since they ( Making reference to Continental Airlines ) kept records and therefore they had no records that would say if any FAA person were on any specific flight of any specific day. Also a Record of Telephone Call is presented as evidence., dated 12/09/94, 12:50 PM

Page 1: Tom Jones reply to her question, "I don't have this information because (WE) don't retain these manifests. All I sent FAA was nothing more than a telex provided by my people. It was not a manifest, nor a permanent record. I know I gave them about five dates, but I'm not sure." Etc., etc., On Page 3 Ms. Canter advises Mr. Ton Jones, that she was asked to attend the meeting as a witness. Also when requested copy of the TELEX sent to Victor Byrd., Mr. Jones replied I don't even know where it is...I provided nothing more than just a teletype message. The complete 4 page document is very "relevant" to these charges of Conspiracy. So the NAATS Union was well aware of what was going on. And as well as other Government Agencies, did nothing to protect my rights, or defend me from these false accusations. This is the National Association of Air Traffic Specialists + Union + representation that I declined officially.

Another question that still puzzles everyone, and I will mention it briefly, is the more than 33 cases of Discrimination and Abuse of Power committed against me by these individuals that I submitted to the Civil Rights Offices in Atlanta, Georgia, all of them properly submitted through the E.E.O complaint process, were completely "ignored" nor mentioned whatsoever by the Respondents.

1. What was the Civil Rights Office in Atlanta, Agency supposed to "Protect" your Rights, and prevent these abuses for occurring. Doing or did to that respect.?

2. What action(s) was ever taken -if any- by the Civil Rights Officer's to "correct" these injustices, unfairness, deficiencies, and bring Justice to any of my cases.

I kept the Civil Rights Offices in Atlanta, well informed of every single incident of Discrimination, that I was a victim. Including this one. I cried out for _HELP_ for 7 years, and nothing was ever done to correct these Acts of Hate and crimes committed against me. This Government Agency is there to "Protect any individual" whose Civil and or Constitutional Rights seems to have been violated. But it did not happened in my cases.

These are part of the "Facts of Law" that have not been addressed nor disputed by the Hon. Secretary. I have enough evidence to Substantiate all my cases. Nor mentioned by the District Court of the United States for the District of South Carolina, Charleston Division, nor the United States Court of Appeals for the Fourth Circuit.

## REASONS FOR GRANTING THE WRIT

**THE COURT SHOULD GRANT REVIEW TO CLARIFY THE ABOVE STATEMENTS. AND GIVE A FINAL DECISION AS TO THE LEGALITY OF THE ISSUES OF LAW, AND VIOLATIONS PRESENTED.**

## STANDARD FOR DECISION

I believe the "EVIDENCE' presented with my request for Writ of Certiorari shows that there is a genuine ISSUE of LAW to move this Case to a JURY-Trial and allowed them to return a verdict..

## DISCUSSION

There is sufficient evidence presented with this case to substantiate Mr. Cordero's claims of Discrimination and Violations to his Civil and Constitutional Rights. It is evident by the Exhibits presented, that Mr. Cordero did everything in his power to bring, his complaints of Abuse of Power, and Discrimination to different stages, and agencies of the Federal Government. His, Civil Rights were violated not only once, but on multiple occasions, as well as his Constitutional Rights as He "cried for help". All these unlawful acts of employment discrimination well evidenced, and were brought to the awareness of the Federal Aviation Administration, during seven years. Up to, and including: the Civil Rights Offices in Atlanta. The Office of Special Counsel in Washington, and the Equal Employment Opportunity Commission. All these events were presented as soon as my career progression "STOPPED" of all a sudden, after my arrival to Jacksonville, Flight Service Station, Jacksonville , Florida., where I was forced to stay and undergo a SERIES of injustices and unfairness, While the Agency failed to take proper and corrective action. Nor permitted to regain control of my career, nor settle down with my Family, in any of the selected locations. During the time I spent in Jacksonville, the Civil Rights Office was well aware of these discriminatory practices, and that I was "wasting my time". Again the Agency failed to take any action against the

perpetrator (s). And continued to expose me to the hostile environment created by my superior(s) and reflected, later on some of my peer's behavior's. Not counting that by 1992 or earlier, already Mr. Victor Byrd with his derogatory (s) statements and recommendations as presented in earlier exhibits., has already "KILLED" any possibilities that my career progression will ever be the same. His quest for Defamation, Slander, and Discrimination, continued until the date of my retirement..

The Agency opted for ignoring these issues. These hostile pursuit continued until the last minutes of Jacksonville FSS , in Florida, and later as demonstrated by my exhibits; well into the San Juan IAFSS environment. It is amazing and or incredible, without logic, that these Agencies have not noticed this pattern of terror. All along, coming/initiated by people highly educated and probably well trained on Learn Behavior. That these persons failed to come to an honest conclusion of the Real Issues, as in this case. Disregarding the emotional and psychological impact on me and my Family. All based on the DOT FAA failure to stop these Abuses of Power and Acts of Discrimination. I believe to be a prudent, judicious, and cautious person, respectful of the law. Although victim of these prejudices, and using good - judgment, I did not exposed my Family to the Living HELL, I was exposed to, from 1990 through 1996. Public Humiliation., Embarrassment in front of my coworkers., and others ACTS of show of Force, Hate, and Discrimination that I suffered. Never investigated nor brought about to the Department of Justice.

I believe this whole case was not only another example of a sour "CONSPIRACY", but totally unprofessional. The many inconsistencies and distortions to the truth, denotes this. It is too late to

stop the damage done by these irresponsible ACTS., to me and my whole family. The damage done to me, as a person, and as an individual, not counting my career destruction, as well as to my Family, Is far, too much, or too great to explain it, at this point in time.

**HOWEVER**

I only hope that my perseverance and dedication to this case over the past five and half years will shed some light to many injustices and discriminatory practices that exist in the work place today. As well as their effects on individual lives and families. Unless accurate records and Evidences of these occurrences, are kept, and were presented, as I have done with this document. these injustices will be rated as "Unbelievable, Exaggerated, and will probably be ignored and allowed to continue or pass as an everyday happenings to most observers.

**CONCLUSION**

For the foregoing reasons, the petition for writ of certiorari should be granted.

Respectfully submitted,

Angel F. Cordero
800 Edmonton Circle
Goose Creek, S. C. 29445
(843) 553 3562

## EXHIBIT A

SUMMARY OF Mr. Curtis Milton E.E.O. Counselor , Jacksonville, Florida, dated 3-29-93.

On 3-29-93 I interviewed Mr. Bill Dorminy at which time I informed him that I was fact finding on an alleged discrimination by Mr. Angel Cordero. I informed him that Mr. Cordero's alleged discrimination was based on National Origin (Puerto Rican). I asked Mr. Dorminy what standards or qualifications did he used in the selection process of the applicants? Mr. Dorminy's response was, "they need only to be a Full Performance Controller (FPL)"> I then questioned Mr. Dorminy on his reason for not selecting Mr. Cordero, since he appeared to be one of the most qualified applicants based on experience and because of his previous certification on the computer system that the candidate would be required to operate. Mr. Dorminy's response was, "Mr. Cordero has for the last five or six years has a performance problem", counseled for use of sick leave in conjunction with RDOs, and he poor english made if difficult to understand him. I then questioned Mr. Dorminy on the extent of Mr. Cordero's contact with others, would it be within the FAA or would it be outside the facility and with the general public. Mr. Dorminy's responded, with other FAA facilities only. I then asked why then could Mr. Cordero have maintained a twenty year employment with the FAA, part of which was as a supervisor at another facility, and his speech was not a problem before. Mr. Dorminy then indicated that Mr. Cordero had, had a speech problem at Anderson FSS which was the reason for his not checking out there. I asked if he would reconsider him for the FSDPS position at JAX ARTC Center. He responded he would never assigned him to that position unless ordered to do so by a superior.

"s/_____"

**EXHIBIT A2**

U.S. Department.
of Transportation

AUTOMATED FLIGHT SERVICE STAT

Federal Aviation
Administration

4301 Northeast Waldo Road
Gainesville, Florida 32609

Date: 2/23/93

Subject: Information: Justification for Selection
0f ATCS, AUS, FSDPS, Jacksonville, FL

From: Air Traffic Manager
Gainesville, FL, AFSS

Reply to
Attn of:

To: Manager, Human Resources

After careful consideration of personal qualifications and performance requirements for the vacant Automation Specialist positions at the new Flight Service Data Processing system (FSDPS) at Jacksonville ARTCC, I have selected the following personnel.

Ms. Jacquline J. Lenard, ATCS Jacksonville, FL, FSS
Mr. Burl W. Jones, ATCS Jacksonville, FL, FSS
Mr. Harold C. Rogers, ATCS Jacksonville, FL, FSS
Mr. Eric J. Strand, ATCS Gainesville, FL, FSS .

Our outreach efforts identified two female minorities and three male minorities. Of these, one female minority, Ms. Lenard, and two of the male minorities, Mr. Rogers and Mr. Strand were selected for the position. One male minority, Mr. Cordero, and one female minority, Ms. Giles lacked the automation experience for such a technical position.

"S/ "
William P. Dorroiny

## EXHIBIT B

PARTIAL LIST OF AWARD OBTAINED AND DATES

All of these obtained within they the Federal Aviation Administration and within the dates indicated by the E.E. O. Counselor's report SUMMARY of INQUIRY to Mr. William Dorminy:

Official Letter of Commendation Government Award 02/75
Official Letter of Commendation Government Award 12/75
Special Achievement Award ASJU-1 03/76
Special Achievement Award ASJU-1 06/76
Official Letter of Commendation Government Award 09/77
Special Achievement Award ASJU-1 02/78
Official Letter of Commendation Government Award 12/81
Official Letter of Commendation Government Award 11/82
Special Achievement Award SJU-IFSS 02/83
Performance Award EXCEP-GPAD ATM CHS-FSS 07/87
Performance Award EXCEP GPAD ATM CHS-FSS 07/88
Performance Award - NON-PMRS Employee Government Award 08/88
Performance Award NON-PRMS Employee Government Award 07/89
Performance Award-EXCEP GPAD ATM CHS-FSS 07/89
Official Letter of Commendation Government Award 11/89
Official Letter of Commendation Government Award 05/90
Performance Award EXCP GPAD ATM AND-AFSS 07/90

**EXHIBIT B-2**

Reprint of letter dated 2123193 Justification for Selection of ATCS, AUS, FSDPS, Jacksonville, FL

U.S. Department of Transportation
Federal Aviation Administration

AUTOMATED FLIGHT SERVICE STATION
4301 Northeast Waldo Road
Gainesville, Florida 32609

Subject: Information: Justification for Selection of ATCS, AUS, FSDPS, Jacksonville, Fl Date: 2123193

From: Air Traffic Manager
Gainesville, Fl, AFSS

Reply to Attn of:

To: Manager, Human Resources Division, ASO-10

After careful consideration of personal qualifications and performance requirements for the vacant Automation Specialist positions at the new Flight Service Data Processing System (FSDPS) at Jacksonville ARTCC, I have selected the following personnel.

Ms. Jacquline J. Leonard, ATCS Jacksonville, Fl, FSS
Mr. Burl W. Jones, ATCS Jacksonville, Fl, FSS
Mr. Harold C. Rogers, ATCS Jacksonville, Fl, FSS
Mr. Eric J. Strand, ATCS Gainesville, Fl, FSS

Our outreach efforts identified two females minorities and three male minorities. Of these, one female minority , Ms. Lenard, and two of the male minorities, Mr. Rogers and Mr. Strand were selected for the position. One male minority, Mr. Cordero, and one female minority, Ms. Giles lacked the automation experience for such a technical position.

Signed by

"s/ "

William P. Dorminy

EXHIBIT C

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF DUVAL ss:

I,WilliamP. Dorminy, am employed by the Federal Aviation Administration as Manager of the Gainesville Automated Flight Service Station located in Gainesville, Florida hereby solemnly swear:

That in determining who should be selected for the Automated Flight Service Specialist under Vacancy announcement # ASO-93-14A-09, I did not discriminated against any of the applicants and in particular Mr. Angel Cordero. In making the selection I reviewed each individual's application package as supplied by the Human Resource Division. I believe that a close examination of the bids packages of all of the candidates will reveal that those selected were more qualified than Mr. Cordero.

Mr. Cordero's claim that he was not selected because he is a minorities has not merit since 3 of the 4 candidates selected were minorities.

According to Mr. Cordero, he has received good rating while working in the San Juan, Puerto Rico IFSS and in Charleston AFSS. However, I am aware of his performance problems at the Anderson, S.C. AFSS and in Jacksonville FSS. Mr. Cordero did not "check out" in the Anderson AFSS because his communication skills were not satisfactory. Since I never supervised Mr. Cordero, I have no first hand knowledge of his communication deficiency, however, I was told of Mr. Cordero failure in Andersen by Mr. Victor Byrd and Mr. Mike Powerly of the southern region Air Traffic Division. As -to why this was not a

problem in his previous facilities I can only speculate that although his communication skills ware acceptable to brief pilots in Puerto Rico area, they were not sufficient in South Carolina or Florida area. It may be possible that if I worked in Puerto Rico, some people may have problem with my southern drawl.

I. am aware of his performance problem in Jacksonville. He is frequently late and have abuse his sick leave privileges. I understand that in many occasions he has called in sick on the days immediately following his RDO. This present a problem to the supervisors because they would have to call in another specialist on short notice. The position of Automated Flight Service specialist demands for reliable and capable individuals.

As for Mr. Cordero's claim of harassment, I believe it to be without merit. During his stay in Anderson, he was given many opportunity and special training in an effort to help him qualify for. the available position. This was more than what was required. The fact that he was also given the opportunity to transfer to the a lower level facilities, with PCS, at Jacksonville is another indication of the division's willingness to help Mr. Cordero.

I would like to stress that at no time during this or any other selection process did I fail to selected a candidate because of his or her National Origin.

I have read the above statement, consisting of 2 pagers, and it is true and complete to the best of my knowledge and belief. I understand that the information I have given is not considered confidential and that it may be shown to the interested parties.

"s/ "
Subscribed and sworn to before
me at Gainsville, Florida
on this 29 day of March 1994

EXHIBIT D

Summary of Mr Carlos V. Otero, E.E.O. Counselor for the D.O.T. F.A.A. Southern Region signed 6/14/94.

Summary of Counselor's inquiry.

Personal Contacts

a. Emeris Smitherman (Jacksonville FSS-ATM) 904-641-7944

Mr. Smitherman advised Mr. Carlos Otero (EEO Counselor) the Mr. Cordero went to some medical appointments on government time while in Jacksonville. Other appointments were in Charleston S.C. Mr. Smitherman agreed with Mr. Cordero that he was entitled to Workman's Compensation. The letter accusing Mr. Cordero of sick leave abuse was typed and brought by Mr. Bill Dorminy from Gainesville AFSS. The letter was signed by Mr. William Rodenfels (Area Supervisor-JAX FSS), under direct order from Mr. Dorminy.

b. William Rodenfels (Area Supervisor-JAX FSS) 904-641-8333. Mr. Rodenfels agreed with Mr. Smitherman that Mr. Cordero went to some medical appointment on government time while in Jacksonville, Florida. Also, that Mr. Cordero was entitled to some Workman's compensation. Also, verified that the letter was signed by him (Mr. Rodenfels), under direct order from Mr. Dorminy.

H) Summary of Informal resolutions attempt.

I) Mr. Emeris Smitherman and Mr. William Rodenfels, Jr. Agreed that Mr. Angel F. Cordero is entitled to Workman Compensation and any expenses incurred because of his allegation. Also, Mr. Smitherman said that is not up to him to make a decision to pay back Mr. Cordero, that is

up to Southern Region. And also, both, Mr. Smithrman and Mr. Rodenfels agreed that the letter that Mr. Rodenfels signed accusing Mr. Cordero of sick leave abuse was brought by Mr. Dorminy. Mr. Rodenfels signed this letter under direct order of his superior (Mr. Bill Dorminy). Mr. Cordero if filing a formal complaint.

"s/_____"

Signature of the EEO Counselor, Mr. Carlos V. Otero appears at the end of the Summary of information

**EXHIBIT E**

I

DECLARATION OF WILLIAM RODENFELS

I, William Rodenfels, declare the following to be "true and correct:

1. I am currently employed as a supervisory Air Traffic Control Specialist (ATCS) at the Gainesville Automated Flight Service Station. I have worked for the Federal Aviation Administration (FAA or Agency) for the past 31 years. I have been a supervisor for the past 19.5 years.

2. From February 1979 to July 1994, I was. a supervisory ATCS in the Jacksonville Flight Service Station (FSS). I was Plaintiff's first line supervisor from 1990-94. I served as Plaintiff's timekeeper during this time
period. As timekeeper, I was responsible for granting Plaintiff sick and annual leave, signing off on his time and attendance cards which are processed every two weeks by the Agency, and taking appropriate steps to resolve any time and attendance problems which came to my attention.

3. Plaintiff had a series of time and attendance problems during the period of time I supervised him. Plaintiff commuted to the Jacksonville FSS from Charleston, South Carolina on a weekly basis. This is a 250 mile commute and takes approximately five hours driving time. Consequently, Plaintiff was often tardy in arriving at the Jacksonville facility after his scheduled days off. Plaintiff's tardiness was disruptive to the operation of the Jacksonville facility.

4. Plaintiff also had a problem with unscheduled absences. He would often take sick days in conjunction with regularity scheduled days off. I observed this pattern over a period of 'time and came to believe Plaintiff was abusing his sick leave. I ,raised this issue with my management,

specifically Mr. Emeris Smitherman, my then-first line supervisor. After much discussion, on August 3, 1992, I issued Plaintiff a memorandum regarding sick leave abuse. This memorandum informed Plaintiff that if he continued to consistently take sick leave in conjunction with regularly scheduled days off, he could be required to present a medical certificate for each subsequent absence.

5. I have recently reviewed official Agency records regarding leave taken by Plaintiff in 1988 through 1991. During this time period, Plaintiff used more annual leave than he earned in all years, and Plaintiff; used more sick leave than he earned in 1988, 1989 and 1991. Exhibit 1.

6. During the 1990-92 time frame, I also supervised Ms. Jacquline J. Lenard, Mr. Harold c. Rogers and Mr. Burl W. Jones. These individuals were ultimately selected for the Automation Specialist position, GS~2152-11/12, under Vacancy Announcement No. ASO-1-2148. None of these individuals had significant time and attendance problems. Specifically, they had no problems with tardiness or unscheduled absences. They did not consistently take sick leave in conjunction with regularly scheduled days off.

I declare under penalty of perjury that the foregoing is true and correct.

"S/ "
WILLIAM RODENFELS
Supervisory Air Traffic Contr. Sp.

Executed on this 19th of October 1998.

## EXHIBIT F

## DECLARATION OF WILLIAM P. DORMINY

I, William P. Dorminy, declare the following to be true and correct:

1. I am a retired Federal Aviation Administration (FAA or Agency) employee with approximately 31 years of service. I was a manager or supervisor with the FAA for approximately 24 years. I have served as the selecting official for numerous positions.

2. From August 1989 to May 1994, I was employed by the FAA as manager of the Gainesville Automated Flight Service Station (AFSS) located in Gainesville, Florida,. During the same timeframe, I was also a Hub Manager for the Flight Service Stations (FSS) at the following Northern : Florida locations: Jacksonville, Tallahassee,. Crestview and Pensacola. As Hub Manager, I had oversight responsibilities for the above-mentioned FSSs. The managers of these FSSs reported directly to me.

3. Plaintiff was employed as a Air Traffic Control Specialist (ATCS), GS-10, in Jacksonville FSS from 1990-94. Prior to his employment in Jacksonville, he was employed as an ATCS in the Anderson, South Carolina AFSS in 1989. During his career, Plaintiff had also worked in the Charleston, South Carolina and San Juan, Puer.to Rico FSSs.

4. As an ATCS, Plaintiff was responsible for giving weather briefings to pilots on the ground in the preflight position, performing weather observation functions, processing flight-related information, providing notices to airmen of outages in the national airspace system, providing pilots in flight with weather, aeronautical, and traffic flow information, and assisting pilots in distress.

5. I was Plaintiff's third level supervisor during the time he worked in Jacksonville FSS. Mr. William Rodenfels was Plaintiff's first level supervisor and Mr. Emeris Smitherman was Plaintiff's second level supervisor and the Manager of the Jacksonville FSS.

6. In conjunction with my responsibility of overseeing the Jacksonville FSS, I met quite frequently with Mr. Smitherman and, to a lesser extent, Mr. Rodenfels. Mr. Smitherman briefed me frequently on personnel issues and problems at the Jacksonville FSS. Mr. Smitherman talked to me on several occasions about Plaintiff's time and attendance problems. Specifically, Mr. Smitherman told me that Plaintiff frequently had unscheduled absences which were disruptive to the operation of the Jacksonville facility. Mr. Smitherman also told me that Plaintiff' commuted a distance of approximately 250 miles from his home in Charleston, South Carolina to Jacksonville. As a result of this lengthy commute of approximately five hours, Mr. Smitherman related to me that Plaintiff was often late to work.

7. Mr. Smitherman also told me that Plaintiff had a habit of taking sick days in conjunction with regularly scheduled days off and that he believed Plaintiff was abusing his sick leave. This situation persisted for quite some time and on August 3, 1992, Mr. Rodenfels issued Plaintiff a memorandum regarding sick leave abuse in which Plaintiff was informed that if he continued to consistently take sick leave in conjunction with regularly scheduled days off, he could be required to present a medical certificate for each subsequent absence. Exhibit 1.

8. I was the selecting official for the Automated Flight Service Station Specialist positions, GS-2152-11/12, on the staff of the Flight Service Data Processing System (FSDPS)

in the Jacksonville Air Route Traffic Control Center (ARTCC) in Hilliard, Florida. These positions were advertised under Vacancy Announcement. No. ASO-1-2148 which was set forth on Vacancy List No. ASO-92-14-22 (AP-9 Test) . The Vacancy Announcement opened on January 4, 1993.

9. On February 23, 1993, I selected the following four individuals for these positions: Jacquline J. Lenard (African American female), Harold C. Rogers (Native American male), Burl W. Jones (White male), Eric J. Strand (Asian Pacific male) .Exhibit 2. A total of 17 individuals applied-for the positions. Id.

10. In order to be minimally qualified for a position as an Automation Specialist at the Hilliard FSDPS, an applicant needed to have worked for at least two years as a full performance controller.[1] The applicant also needed to have taken, as a prerequisite, coursework in automation systems. Plaintiff met both of these prerequisites.

11. Beyond these minimal qualifications, I was seeking, first and foremost, to select reliable individuals with a good work ethic without significant time and attendance problems. In addition, I was looking for individuals with (1) a working knowledge of all flight service station-related computer equipment and functions so as to ensure the adequacy of automation support; (2) an ability to rapidly gather, analyze and evaluate information to make 'recommendations; (3) an ability to communicate with others effectively, both orally and in writing and (4) an ability to get along with others.

12. In making my choices for the Automation Specialist positions, I put a heavy emphasis on reliability, dependability; work ethic, good attendance and punctuality because of the staffing and the nature of the work being

performed at Hilliard. The FSDPS staff performs a very important function in that they monitor and maintain the mainframe computers at Hilliard that drive the the Gainesville and St. Petersburg AFFSs.

13. The computers in Gainesville and St. Petersburg are used for briefing pilots on weather conditions, processing pilot flight plans into the system, processing notices to airmen regarding outages in navigational systems, and law enforcement assistance. The Gainesville and St. Petersburg AFSSs are two of the busiest in the nation.

14. If a computer problem is experienced in Gainesville or St. Petersburg, the Automation Specialist on duty at the FSDPS in Hilliard is responsible for analyzing the problem and taking immediate action to repair the problem, if related to software, or to have it repaired, if related to hardware. See Exhibit 3. If immediate action is not taken, the Gainesville and St. Petersburg AFSSs could be temporarily shut down, and the traffic relying on these facilities would have to be transferred to surrounding facilities. See id. This would increase the workload for backup facilities, such as Macon, Georgia, Anderson, South Carolina and Miami, Florida, and could cause delays for pilots seeking to obtain pre-flight briefings. Air safety could be impacted if a pilot flies into unforeseen weather because s/he is unable, due to outages in the computer system, to obtain a pre-flight briefing, as required by regulation. In addition, airborne aircraft are not be able to obtain the latest weather information in the event of outages, as this function cannot be transferred to other facilities.

15. Reliability and punctuality are also important attributes for an individual selected for the Automation Specialist position because of the manner in which the FSDPS is staffed. The FSDPS is open 24 hours a

day. and, due to budgetary restrictions, the FSDPS was only authorized to have one staff member on duty during a given shift. Overtime in my organization was extremely limited and had to be justified on a case by case basis. My organization also had very limited options for finding backups in the event an employee scheduled for a particular shift was sick or on leave.

16. I did not select Plaintiff for the Automation Specialist position because I did not believe he was well-suited to work in the FSDPS for a number of reasons. First, he had a reputation for being unreliable and he had deficiencies in the areas of time and attendance and tardiness. Plaintiff also had performance problems communicated to me by his. supervisors and a poor professional reputation in the Jacksonville facility. In addition, I knew that Plaintiff's home and family were in Charleston, South Carolina which was a five hour drive from the Hilliard facility. Because of the distance of his home from the facility, I would not have been able to rely on Plaintiff to serve as aback up or to work overtime if he were selected as an Automation Specialist. Because the Hilliard FSDPS was minimally staffed, it was important to me that all the individuals selected as Automation Specialists be able to serve as a back up on short notice and to work overtime in the event that one of the other specialists was unexpectedly absent.

17. In making my decision not to select. Plaintiff for the Automation Specialist position, I also took into consideration the fact that he had not "checked out" at the Anderson, South Carolina AFSS where he worked for seven months prior to coming to Jacksonville.[2] The Anderson facility is the only automated facility Plaintiff has ever worked in during his F~ career. All of the other facilities Plaintiff has worked in have been manual facilities. In order to "check out" at an automated facility such as Anderson, an

individual must become certified or proficient on the following positions in the AFSS: Preflight, Flight Data, Broadcast, Weather Observation, Notices to Airmen and In Flight. In order to "check out, " an employee must have an in-depth understanding of the automated equipment, so as to be able to competently retrieve and display data and then transmit it to the pilots. This ability requires a high level of understanding of the operation of the automated systems and their functions. It is not something that can be fully mastered by taking a class or doing coursework.[3] The fact that Plaintiff was" unable to. function in an automated environment at the Anderson AFSS caused me to become concerned that he may have problems understanding automated systems and working effectively at the FSDPS.

18. I have heard of Plaintiff's communications problems. For instance, on a few occasions while visiting the Jacksonville facility, I saw Plaintiff answer the phone and hang it up immediately. When I inquired as to why this was happening, I was told that pilots often call in for weather briefings and then .hang. up when Plaintiff answers the phone because they cannot understand his briefings because of his Puerto Rican accent.

19. Plaintiff's language skills were not a factor which I seriously considered in deciding not to select him for the Automation Specialist position. The Automation Specialist position was different from the ATCS position Plaintiff held in Jacksonville in that the Automation Specialist does not have to give pilot briefings to the public. Rather, the Automation Specialist must communicate with individuals at various locations within the FAA to trouble shoot. and repair computer outages. While language skills were of some importance for the Automation Specialist position, they were less important for the ATCS position Plaintiff

incumbered in Jacksonville. I believe Plaintiff's language skills were sufficient to perform the duties of the Automation Specialist position competently.

20. My selection decisions were made on the basis of the applicants' written application package, and discussions I conducted with each of the applicants' supervisors. I did not interview any of the applicants. I also reviewed and considered initial ratings the Agency personnel specialist made prior to forwarding the application packages to me.

21. I had discussions regarding all of the applicants with their supervisors. I inquired regarding the reliability, dependability, work ethic, professional reputations, time and attendance and punctuality of all of the applicants. The applicants I selected had excellent professional reputations in their respective FSSs and were highly reliable. None of the applicants I selected had significant time and attendance problems. All lived in the vicinity of Hilliard and were readily available to work overtime and to serve as a back-up.

22. During my professional career, I recall a number of instances in which I attended national meetings for AFFS managers in which there was that the services performed by the FSDPS were so important that it was crucial to pick the most highly reliable individuals for the job.

23. I am aware that Plaintiff/ is alleging that I whispered in his left ear on or about March 7, 1993 in Gainesville, Florida "don't waste your time, I know all about you, I will never select you because you are a _____ Puerto Rican." I strongly deny that I made this or any like statement. I also deny that Plaintiff's national origin played any role whatsoever in my decision not to select him as an Automation Specialist.

24. During my career as a supervisor at the FAA, a number of individuals who were not selected for various positions have approached me to learn why they were not selected. I generally do not give these individuals specific information about why they were not selected. Rather, I refer them to their first line supervisors to work on their deficiencies.

25. During my career as an FAA supervisor, on two or more. occasions, I have selected Puerto Ricans for job vacancies. In approximately 1990, I selected Pedro Munoz for an ATCS vacancy in Gainesville. In approximately 1984, I selected Herbie Castro from the San Juan FSS to fill a vacancy in the Fort Myers FSS.

I declare under penalty of perjury that the foregoing is true and correct .

"s/_____"
WILLIAM P. DORMINY

Executed on this 19TH of October 1998.

1 A "full performance controller" is an air traffic control specialist who is certified to work the full range of shifts in his facility without a trainer or a supervisor in the room.

2 While "checking out" at an automated facility was not a job prerequisite, Plaintiff's inability to "check out" indicated to me that he was not well-suited to working in the FSDPS environment. Plaintiff's inability to "check out" led me to make the comment in my justification memorandum that Plaintiff "lacked automation experience for such a technical position ." Exhibit 4.

3 I am aware that Plaintiff successfully completed coursework on the MIFC automation system which is in use at AFSSs. However, there is a big difference between completing a course and being able to use, trouble shoot and repair the MIFC system proficiently.

**EXHIBIT G**

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
AFFIDAVIT

COMMONWEALTH OF PUERTO RICO

COUNTY OF CAROLINA

I, Francisco Estrada Cotto, Air Traffic Manager, San Juan Automated Flight Service Station, GS-2152-14, Federal Aviation Administration, San Juan Puerto Rico, make the following statement freely and voluntarily to Wilma Rosenberg, who has identified herself to me as an EEO INVESTIGATOR for the U.S. DEPARTMENT OF TRANSPORTATION, OST/DOCR, knowing that this statement may be used in evidence. I understand that this statement is not confidential and may be shown to any interested party.

I HEREBY SOLEMNLY __swear
(SWEAR OR AFFIRM)

1. I began working at this station in my current position in December 1994. I have worked for the FAA since 1971. I have worked in various positions. I am a Puerto Rican male. I filed an EEO complaint in the end of 1978.

2. Victor Garcia briefed my about the situation involving Mr. Cordero's misuse of the SF 160 program before he left. Victor told me that charges were being brought against Angel Cordero for misusing the SF 160 program. He told me Victor Byrd, Operations Specialist in ASO-540, was handling the matter in A t l a n t a . (Victor Byrd is currently in Anniston). He said they had

an enormous amount of evidence against

3. My subsequent dealings were with Victor Byrd. When I got a grievance from Cordero about this case, I would sent them to Victor Bryd for response. Likewise, they sent me the letter proposing his suspension, I signed it and gave it to Cordero. When I got Cordero's response, I sent it to Bryd. It was my understanding that everything was worked out at the Regional level between the Union and the Region. I was informed that an agreement was made to reduce his suspension from 20 days to 5 days. In my experience, if the Union agreed to a 5 day suspension, they believed that the program had been violated. There is no way that the Union would go along with the suspension if t h e y did not believe that there had been a violation. If they go along with it, in my opinion there was sufficient evidence of his wrongdoing. In my experience if the Union thought they had the grain of hope that they could win, they would fight it. Here, they didn't.

4. With regard to the removal of his SF 160 privileges, I was also instructed by the Region to suspend his privileges for a period of two years. Two year is the minimum mandatory suspension period. I do not remember whether I wrote the letter at their instruction or they sent one to me for my signature. I did not do an independent investigation before issuing this letter either. I did not have access to the underlying facts and circumstances; this all happened before Mr. Cordero came to Puerto Rico .

5. Nothing that was done here was done because of his national origin or because he had prior EEO activity. I had heard rumors that Cordero had filed EEO complaintssince I became involved. At the time I signed these letters I was

not aware he had filed earlier EEO complaints.

6. The investigator has shown me the three page document signed by Victor Byrd, dated October 25, 1994. This is the first time I have seen this document. However, I was told that because they saw his car in the parking lot every week, this is way they started the investigation. Based on what I see here, he had taken 10 trips and they say there were more. As they are different dates, if he went, I am assuming that he came back. He was only allowed 8 trips.

PAGE 3 OF 3 PAGES, DEPONENT'S INITIALS _____.
I HAVE READ THE ABOVE STATEMENT, CONSISTING OF 3 PAGES, AND IT IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT THE INFORMATION I HAVE GIVEN IS NOT TO BE CONSIDERED CONFIDENTIAL AND THAT IT MAY BE SHOWN TO THE INTERESTED PARTIES.

"s/_____"
DEPONENT'S SIGNATURE

SUBSCRIBED AND (SWORN TO) (AFFIRMED)
BEFORE ME AT San Juan
ON THIS 25th DAY OF January, 1996.

"s/_____"
(INVESTIGATOR'S SIGNATURE)
Investigator, U.S. Department of Transportation
DOCR/OST

## EXHIBIT G2

Reprint of letter of Mr. Francisco Estrada-Cotto Acting Air Traffic Manager San Juan IFSS, Puerto Rico dated FEE 10 1995

LOGO
U.S. Department Southern Region
of Transportation

P. 0. Box 20636
Atlanta, Georgja
30320

Federal Aviation
Administration

FEB 10 1995

Mr. Angel Cordero
San Juan IFSS
San Juan, Puerto Rico

Dear Mr. Cordero:

My letter of December I, 1994, informed you of a proposal to suspend you for 20 days for misuse of position for personal gain.

I have given full consideration to the information you presented in your written reply dated December 14, 1994. I fmd that the specific reason in my letter of December 1, 1994, is fully supported by the evidence and warrant your suspension. However, as a result of a settlement agreement between the National Association of Air Traffic Specialists, Southern Region and the Federal Aviation Administration, Southern Region, you will be suspended for five (5) days effective March 6, 1995;

Sincerely,

Francisco Estrada- Cotto

Acting Air Traffic Manager
San Juan IFSS

RECEIVED BY: AFCordero
DATE: Feb 10 1995

Across the right hand margin bears the inscription
ACKNOWLEDGEMENT COPY
and in the
extreme lower right hand corner, the inscription:
Original mailed to ASO-16 on 2/10/96 CC

EXHIBIT H

RECORD OF TELEPHONE CALL dated 8-31-94, done by Ms. Grizzelle M. Canter as a follow up investigation. In her capacity of San Juan IFSS NAATS (National Association of Air Traffic Specialists) Union Representative. Time 4:pm

Name of the person contacted: Mr. Tom Jones / Continental Airlines 713-23-1077
Digest. I telephoned the familiarization travel representative to request information. I believe his name was Tom Jones. I identified myself and told him that I needed to document fam. Travel dates fm one of our employees. Mr. Jones said. He was not able to help me because it had been a while since they kept records and therefore they had no records that would say if any FAA person were on any specific flight of any specific day.

"s/ "

Ms. Grizzelle M. Canter signature appears at the end of this Record of Telephone Call.

EXHIBIT I

RECORD OF TELEPHONE CALL, DATED 12/09/94 time 12:50pm. Done by Mrs. Grizzelle M. Canter San Juan IFSS, San Juan Puerto Rico. In her capacity as an official of the NAATS (National Association of Air Traffic Specialists) Labor organization.

Name of person contacted, Mr. Tom Jones Continental Airlines Tel: 713-233-1077

Subject: FAA Letter to ATCS Angel F. Cordero dated December 1, 1994.

Digest:

This is a record of conversation with Mr. "TJ" Tom Jones, of Continental Airlines, and "GC"< Grizzelle M. Canter, of TJSJ IFSS. I telephoned Mr. Tom Jones in order to verify information supplied by him to the FAA. I said to Mr. Jones that it was mentioned on a letter to one of our employees that he supplied computer data sheets and manifests of specific flights that verify the names of the jump seat rider on specific dates on continental flights, and that Victor Byrd said the information was provided by Mr. Tom Jones of Continental Airlines. The following record is not verbatim, but is written to the best of my recollection, and I am writing this immediately after our conversation.

GC: Can you provide this same information to me as well?

TJ: I don't have this information because we don't retain these manifests. All I sent FAA was nothing more than a telex provided to me by my people. It was not a manifest, nor a permanent record. I know I gave them about five dates, but I'm not sure.

GC: Mr. Cordero was given 10 specifications and we know for a fact that on at least one of those days, he was at work. Yet your name is mentioned on each specification on Mr.

Cordero's letter.

TJ: The employee did use our service. He knew our people. He probably was on an official SF-160 on the first trip, but after that, my people let him (travel), not knowing that he didn't have the proper authorization. I know about the FAM-TRIP Program because I was the Chief of the Miami Tower. (other talk of his previous FAA experience) ...but if we let him (Cordero) get away with this, we become party to this and we cannot legally let this go on, we just can't do that... You know that when the (CONTINENTAL AIRLINES) employees at the field see an FAA Badge, they think OH-OH, here come the COPS...

GC: Yes, I know at times when I fam, they think I'm on investigator when I'm only on a FAM Trip...By the way, in the past, I know Continental airlines does not accept my FAA Papers they say they don't need them.

TJ: Yes, we do not usually collect them. Are you with EEO or something?

GC: No, the NAATS Union REP was not present, and I was asked to attend the meeting as a witness. As a witness, If the allegations are true, I would like to know, and if they are not true, I also want to know.

TJ: Doesn't the FAA have papers or records of this?

GC: Yes, we have requested all information that we believe will help us reply to the letter, but we only have 15 days, so I have telephoned you in order to help us expedite a response. Could you provide me with the copy of the telex you sent to Victor Byrd?

TJ: I don't even know where it is...I provided nothing more than just a teletype message...not a manifest , because just like the FAA, we don't keep those forever.

GC: I'd like to read to you at least one of the specifications on this letter.

TJ: Please...Go on...(I read Specifications Number 1 from Cordero's letter)

TJ: What? If my name is there, I'm involved. If I'm involved, I need to consult the legal department.
GC: You are named on each specification like this, and this complete action is...only based on whatever information you provided to Victor Byrd.
TJ: Did FAA provide you with any other information?
GC: No, the letter is based on what you aid, so naturally I telephoned you in order to obtain such manifest lists or computer printouts from you, since all of the allegations are based on what you said.
TJ: Would you please fax me a copy of this letter?
GC: Thank you very much for your time and attention to this matter.

NAATS decided not to provide a fax copy at this time.

"s/_____"

Signed on 12/9/94 by ATCS Grizzelle M. Canter

**EXHIBIT I**

Falsified Official Federal documents.. will be hard to duplicate and or reprint. However copies of the Originals and even the Original will be submitted as evidence at the Honorable Supreme Court requests.

# APPENDIX

**APPENDIX A**

FILE COPY
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
February 21, 2001

No.00-2100

CA-99-3019-2-18AJ
CA-99-2580-2-18AJ

ANGEL F. CORDERO
Plaintiff -Appellant

v.

RODNEY E. SIATER, Secretary of Transportation
Defendant -Appellee

On Petition for Rehearing En Banc

The appellants petition for rehearing en banc was submitted to this Court. As no member of this Court requested a poll on the petition for rehearing en banc,
IT IS ORDERED that the petition for rehearing en banc is denied.

For the Court,
/s/ Patricia S. Connor
CLERK _____

## APPENDIX B

## UNPUBLI SHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No 00-2100

ANGEL F. CORDERO

Plaintiff -Appellant,

versus

RODNEY E. SLATER, Secretary of Transportation,

Defendant -Appellee.

Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, District Judge. (CA-99-3019-2-18AJ, CA-99-2580-2-18AJ)

Submitted: December 14, 2000 Decided: December 21, 2000

Before WIDENER, WILKINS, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Angel F. Cordero, Appellant Pro Se. John Harris Douglas, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in the circuit. See Local Rule 36 [c].

PER CURIAM:

Angel F. Cordero appeals the district court's orders and judgment granting summary judgment to the Secretary of Transportation and dismissing his
employment discrimination complaint and denying his motion for reconsideration. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and fmd no
reversible error. Accordingly, we affirm on the reasoning of the district court. See Cordero v. Slater, Nos. CA-99-3019-2-18AJ (D.S.C. July 28 & Aug. 15, 2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

## APPENDIX C

(Stamped: F I L ED JUL 27, 2000
LARRY w. PROPES, CLERK
CHARLESTON, SC
Angel F. Cordero ) Civil Action No. 2:99-2580-18AJ31
and 2:99-3019-18AJ 26
Plaintiff,
vs. ORDER

Rodney E. Slater,
Secretary of Transportation,

Defendant.

The above reference cases are before this court upon the magistrate judge's recommendation the defendant's motion for summary judgment be granted. Because plaintiff is proceeding pro se, this matter was referred to the magistrate judge. 1 The record includes the report and recommendation of the United States Magistrate Judge mad in accordance with this Court's Order of Reference and 28 U.S.C. #636(b)(1)(B).

This Court is charged with conducting a de novo review of any portion of the magistrate judge's report to which specific objection is registered, and may accept, reject, or modify , in whole or in part, the recommendations contained in that report. 28 U.S.C. #636(b) (1). However, absent prompt objection by a dissatisfied party, it appears the Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. **Thomas v Arn 474 U.S. 140 (1985).** Additionally, any party who fails to lie timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. #636(b)(1) waves the right to raise those objections at the appellate court level. United States v Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 120 (1984).2 Objections to the magistrate

judge's report and recommendation were lied on July 14, 2000.

A review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. For the reasons articulated by the magistrate judge, it is **ordered** that defendant's motion for summary judgment is **granted** and both referenced cases are hereby ended.

AND IT IS SO ORDERED.

"s/ "

Signed by: David C. Norton
United States District Judge
Charleston, South Carolina
July 27, 2000

1: Pursuant to the provisions of Title 28 United States Code, #636(b)(1)(B), and Local rule 19.02(b)(2)(D), D.S.C., the magistrate judge is authorized to review all pretrial matters in cases filed under Title 42 United States Code, #1983, and submit findings and recommendations to this Court.

2 In Wright v. Collins, 766 F.2d 841 (4th Cir. 1985), the court held "that a pro se litigant must receive fair notification of the consequences of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required." Id. At 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten ( 10) days, and he received notice of the consequences at the appellate level of his failure to object to the magistrate judge's report.

## APPENDIX D

(Stamped: entered 8/15/00 SCANNED)
FILED: AUG 15 2000
LARRY w. PROPES, CLERK CHARLESTON,SC

IN THE UNITED STATES DISCTRICT COURT
FOR THE DISTRIC OF SOUTH CAROLINA
CHARLESTON DIVISION

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| Angel F. Cordero, | ) | Civil Action No.2:99-2580-18AJ |
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| Plaintiff, | ) | |
| V8. | ) | ORDER |
| | ) | |
| Rodney E. Slater, | ) | |
| Secretary of Transportation, | | |
| Defendant.) | | |

This matter is before this court on Plaintiffs Motion for Reconsideration dated August 7, 2000. It is unclear to this court whether this Motion has been filed or whether a copy has been served on the attorneys for Defendant. Nonetheless, Plaintiffs Motion must be denied.

On July 27, 2000 this court affirmed the Report and Recommendation of the Magistrate Judge. As noted on page 2 of this court's order, it had received and considered Plaintiffs Objections to the Report and Recommendation which were filed with the Clerk of Court on July 14, 2000. The Magistrate Judge exhaustively analyzed and accurately summarized the position of both parties to this controversy and recommended that Defendant's Motion for Summary Judgment be granted. This court was charged with the

conducted a de novo review of the Magistrate Judge's Report and Recommendation and affirmed his decision.

After a reconsideration of all of the material submitted, including Plaintiffs Motion for Reconsideration, this court DENIES Plaintiffs Motion.

AND IT IS SO ORDERED.

"s/ "

David C. Norton
United States District Judge

Charleston, South Carolina
August 15, 2000